

Federal Trade Commission

§ 453.2

funeral, obtaining necessary permits, and placing obituary notices.

§ 453.2 Price disclosures.

(a) *Unfair or deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with the preventive requirements in paragraph (b) of this section is not engaged in the unfair or deceptive acts or practices defined here.

(b) *Preventive requirements.* To prevent these unfair or deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in § 453.4(b)(1), funeral providers must:

(1) *Telephone price disclosure.* Tell persons who ask by telephone about the funeral provider's offerings or prices any accurate information from the price lists described in paragraphs (b)(2) through (4) of this section and any other readily available information that reasonably answers the question.

(2) *Casket price list.* (i) Give a printed or typewritten price list to people who inquire in person about the offerings or prices of caskets or alternative containers. The funeral provider must offer the list upon beginning discussion of, but in any event before showing caskets. The list must contain at least the retail prices of all caskets and alternative containers offered which do not require special ordering, enough information to identify each, and the effective date for the price list. In lieu of a written list, other formats, such as notebooks, brochures, or charts may be used if they contain the same information as would the printed or typewritten list, and display it in a clear and conspicuous manner. Provided, however, that funeral providers do not

have to make a casket price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information required by this paragraph.

(ii) Place on the list, however produced, the name of the funeral provider's place of business and a caption describing the list as a "casket price list."

(3) *Outer burial container price list.* (i) Give a printed or typewritten price list to persons who inquire in person about outer burial container offerings or prices. The funeral provider must offer the list upon beginning discussion of, but in any event before showing the containers. The list must contain at least the retail prices of all outer burial containers offered which do not require special ordering, enough information to identify each container, and the effective date for the prices listed. In lieu of a written list, the funeral provider may use other formats, such as notebooks, brochures, or charts, if they contain the same information as the printed or typewritten list, and display it in a clear and conspicuous manner. Provided, however, that funeral providers do not have to make an outer burial container price list available if the funeral providers place on the general price list, specified in paragraph (b)(4) of this section, the information required by this paragraph.

(ii) Place on the list, however produced, the name of the funeral provider's place of business and a caption describing the list as an "outer burial container price list."

(4) *General price list.* (i)(A) Give a printed or typewritten price list for retention to persons who inquire in person about the funeral goods, funeral services or prices of funeral goods or services offered by the funeral provider. The funeral provider must give the list upon beginning discussion of any of the following:

(1) The prices of funeral goods or funeral services;

(2) The overall type of funeral service or disposition; or

(3) Specific funeral goods or funeral services offered by the funeral provider.

(B) The requirement in paragraph (b)(4)(i)(A) of this section applies

§ 453.2

16 CFR Ch. I (1–13 Edition)

whether the discussion takes place in the funeral home or elsewhere. Provided, however, that when the deceased is removed for transportation to the funeral home, an in-person request at that time for authorization to embalm, required by § 453.5(a)(2), does not, by itself, trigger the requirement to offer the general price list if the provider in seeking prior embalming approval discloses that embalming is not required by law except in certain special cases, if any. Any other discussion during that time about prices or the selection of funeral goods or services triggers the requirement under paragraph (b)(4)(i)(A) of this section to give consumers a general price list.

(C) The list required in paragraph (b)(4)(i)(A) of this section must contain at least the following information:

(1) The name, address, and telephone number of the funeral provider's place of business;

(2) A caption describing the list as a "general price list"; and

(3) The effective date for the price list;

(ii) Include on the price list, in any order, the retail prices (expressed either as the flat fee, or as the price per hour, mile or other unit of computation) and the other information specified below for at least each of the following items, if offered for sale:

(A) Forwarding of remains to another funeral home, together with a list of the services provided for any quoted price;

(B) Receiving remains from another funeral home, together with a list of the services provided for any quoted price;

(C) The price range for the direct cremations offered by the funeral provider, together with:

(1) A separate price for a direct cremation where the purchaser provides the container;

(2) Separate prices for each direct cremation offered including an alternative container; and

(3) A description of the services and container (where applicable), included in each price;

(D) The price range for the immediate burials offered by the funeral provider, together with:

(1) A separate price for an immediate burial where the purchaser provides the casket;

(2) Separate prices for each immediate burial offered including a casket or alternative container; and

(3) A description of the services and container (where applicable) included in that price;

(E) Transfer of remains to funeral home;

(F) Embalming;

(G) Other preparation of the body;

(H) Use of facilities and staff for viewing;

(I) Use of facilities and staff for funeral ceremony;

(J) Use of facilities and staff for memorial service;

(K) Use of equipment and staff for graveside service;

(L) Hearse; and

(M) Limousine.

(iii) Include on the price list, in any order, the following information:

(A) Either of the following:

(1) The price range for the caskets offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or

(2) The prices of individual caskets, disclosed in the manner specified by paragraph (b)(2)(i) of this section; and

(B) Either of the following:

(1) The price range for the outer burial containers offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or

(2) The prices of individual outer burial containers, disclosed in the manner specified by paragraph (b)(3)(i) of this section; and

(C) Either of the following:

(1) The price for the basic services of funeral director and staff, together with a list of the principal basic services provided for any quoted price and, if the charge cannot be declined by the purchaser, the statement: "This fee for our basic services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)". If the charge cannot be declined by the purchaser, the quoted price shall include all charges

for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase “and overhead” after the word “services”; or

(2) The following statement: “Please note that a fee of (*specify dollar amount*) for the use of our basic services is included in the price of our caskets. This same fee shall be added to the total cost of your funeral arrangements if you provide the casket. Our services include (*specify*).” The fee shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase “and overhead” after the word “services.” The statement must be placed on the general price list together with the casket price range, required by paragraph (b)(4)(iii)(A)(1) of this section, or together with the prices of individual caskets, required by (b)(4)(iii)(A)(2) of this section.

(iv) The services fee permitted by § 453.2(b)(4)(iii)(C)(1) or (C)(2) is the only funeral provider fee for services, facilities or unallocated overhead permitted by this part to be non-declinable, unless otherwise required by law.

(5) *Statement of funeral goods and services selected.* (i) Give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:

(A) The funeral goods and funeral services selected by that person and the prices to be paid for each of them;

(B) Specifically itemized cash advance items. (These prices must be given to the extent then known or reasonably ascertainable. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.); and

(C) The total cost of the goods and services selected.

(ii) The information required by this paragraph (b)(5) may be included on any contract, statement, or other document which the funeral provider would otherwise provide at the conclusion of discussion of arrangements.

(6) *Other pricing methods.* Funeral providers may give persons any other price information, in any other format, in addition to that required by § 453.2(b)(2), (3), and (4) so long as the statement required by § 453.2(b)(5) is given when required by the rule.

§ 453.3 Misrepresentations.

(a) *Embalming provisions—*(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to:

(i) Represent that state or local law requires that a deceased person be embalmed when such is not the case;

(ii) Fail to disclose that embalming is not required by law except in certain special cases, if any.

(2) *Preventive requirements.* To prevent these deceptive acts or practices, as well as the unfair or deceptive acts or practices defined in §§ 453.4(b)(1) and 453.5(2), funeral providers must:

(i) Not represent that a deceased person is required to be embalmed for:

(A) Direct cremation;

(B) Immediate burial; or

(C) A closed casket funeral without viewing or visitation when refrigeration is available and when state or local law does not require embalming; and

(ii) Place the following disclosure on the general price list, required by § 453.2(b)(4), in immediate conjunction with the price shown for embalming: “Except in certain special cases, embalming is not required by law. Embalming may be necessary, however, if you select certain funeral arrangements, such as a funeral with viewing. If you do not want embalming, you usually have the right to choose an arrangement that does not require you to pay for it, such as direct cremation or immediate burial.” The phrase “except in certain special cases” need not be included in this disclosure if state or local law in the area(s) where the provider does business does not require embalming under any circumstances.

(b) *Casket for cremation provisions—*(1) *Deceptive acts or practices.* In selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to: